

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

FRANK YU,

Plaintiff,

vs.

NAVIENT SOLUTIONS, LLC,

Defendant.

No.

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1331, 1367, 1441 and 1446, Defendant, Navient Solutions, LLC (“NSL”), hereby removes the above-captioned action from the Second Judicial District Court for Bernalillo County, New Mexico, to the United States District Court for the District of New Mexico. As grounds for the removal of this case, NSL states as follows:

THE STATE COURT ACTION

1. On March 4, 2020, Plaintiff, Frank Yu (“Plaintiff”), commenced the underlying state court action, captioned *Frank Yu v. Navient Solutions, LLC, a Foreign Limited-Liability Company*, Docket No. D-202-CV-2020-01728 (the “State Court Action”), by filing a Complaint for Damages, Declaratory Relief and Injunctive Relief (the “Complaint”) in the Second Judicial District Court for Bernalillo County, New Mexico.

2. Pursuant to 28 U.S.C. §1446(a), a true and correct copy of all process, pleadings, and orders from the State Court Action, including the Complaint, are attached as “Exhibit A”.

3. A copy of the docket from the State Court Action is attached as “Exhibit B”.

REMOVAL IS TIMELY

4. NSL was served with a copy of the Complaint on April 6, 2020.

5. NSL is filing this Notice of Removal within thirty (30) days of service of the Complaint, and therefore removal is timely pursuant to 28 U.S.C. § 1446(b).

THIS COURT HAS FEDERAL QUESTION JURISDICTION

6. This action is removable because the Court has original jurisdiction under 28 U.S.C. § 1331, which provides in pertinent part that the “district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.”

7. In the Complaint, Plaintiff has alleged claims arising under a federal statute—the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. §§ 1692 *et seq.* (Complaint, ¶¶ 20-26.)

8. Specifically, Plaintiff alleges that NSL violated sections 1692c, 1692g and 1692e of the FDCPA and that he was “substantially damaged” as a result. (*Id.*)

9. This Court therefore has federal question jurisdiction over the action under 28 U.S.C. § 1331 because the Complaint purports to assert claims arising under the laws of the United States—namely, three sections of the FDCPA. (*Id.*)

10. Plaintiff also asserts a state law claim for alleged violation of the New Mexico Unfair Practices Act, NMSA 1978, §§ 57-12-1, *et seq.* (Complaint, ¶¶ 27-32.)

11. This Court has supplemental jurisdiction over Plaintiff’s state law claims under 28 U.S.C. § 1367. The allegations in the Complaint form a single, common nucleus of operative facts concerning NSL’s alleged conduct. As such, all allegations form part of the same case or controversy for purposes of 28 U.S.C. § 1367.

ALL OTHER REMOVAL REQUIREMENTS ARE SATISFIED

12. The Second Judicial District Court for Bernalillo County is within the judicial district of this United States District Court. The action is therefore properly removed to this Court pursuant to 28 U.S.C. §§ 1441 and 1446.

13. Pursuant to 28 U.S.C. § 1446(d), NSL will give Plaintiff written notice of the filing of this Notice of Removal and shall file the written notice of the filing of this Notice of Removal with the Clerk of the Second Judicial District Court for Bernalillo County. (A true and correct copy of the Notice of Filing of Notice of Removal is attached as “Exhibit C”).

WHEREFORE, Defendant, NSL, hereby removes the State Court Action to the United States District Court for the District of New Mexico.

Respectfully submitted,

/s/ Benjamin E. Gordon
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DATED: May 6, 2020

CERTIFICATE OF SERVICE

I, Benjamin E. Gordon, Esquire, hereby certify that on May 6, 2020, I caused the foregoing to be electronically filed via the Court's ECF system and served via email upon the following:

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